HIGH COURT OF UTTARANCHAL AT NAINITAL

CRIMINAL APPEAL NO. 991 OF 2001
(OLD NO. 1305/1983)

Provident Fund Inspector,
Dehradun. ….Complainant-Appellant.

Vs.

1. M/s East Hope Town Estate Co. Ltd. Prem Nagar Dehradun through Shri R.N. Manglik, Dehradun through Shri R.N. Manglik, Occupier and Director.
2. Shri R.N. Manglik, Occupier and Director of M/s East Hope Town Estate Co. Ltd, Prem Nagar, Dehradun.
3. Shri Rajpal Singh, Manager M/s East Hope Town Estate Co. Ltd. Prem Nagar, Dehradun.

…….Accused-respondents.

Hon'ble Rajesh Tandon, J.

Heard Sri Ashok Agarwal, counsel for the appellant and A.G.A. for the State.

2. By the present Criminal Appeal, the appellant has challenged the judgment and order dated 28th August, 1981 passed by Munsif Magistrate (Second), Dehradun in Criminal Case No. 877 of 1980 by which the opposite party has been exonerated from the charges levelled under Section 14 of the Employees' Provident Fund & Family Pension Act, 1952.

3. According to the averments made by the Provident Fund Inspector, the employer has not deposited the

amount of the employees provident fund by 15th of every month. However, it has come in the evidence that the entire amount has been deposited on 15th July, 1980 and the same has been duly accepted.

4. The Munsif Magistrate has recorded a finding that there is no averment on behalf of he Provident Fund Inspector/Complainant that how much delay is there in depositing the amount and further the opposite party is a Company and not a factory, provisions of the Employees provident Fund & Family pension Act, 1952 will not apply.

5. A perusal of the record shows that a finding has been recorded that the complainant has not come with specific case as to what was the default and in what manner, the amount has been deposited, in absence of such material, the provisions of Section 14 of the Employees Provident Fund and Family Pension Act, 1952 are not applicable.

6. However, it is made clear that since the matter relates to the years, 1980 and it appears that the amount was deposited on 15th July, 1980 as per order passed by the Munsif Magistrate dated 28.08.1981, the leave cannot be granted to file the present appeal. However, it will be open for the appellant to file the complaint in case subsequent cause of action arises under the provision of the Employees Provident Fund & Family Pension Act, 1952 for the default of the opposite parties under Section 14 of the said Act.

7. Since in the present case, a finding has been recorded that the amount has already been deposited, which has been admitted in the cross examination, I see no reason to interfere and the Appeal, therefore, deserves to be rejected.

8. I reject the leave application. Consequently, appeal also lacks merit and is dismissed.

(Rajesh Tandon, J.)

04.12.2006
Rathor